
**Report to
The Vermont Legislature**

**Food and Lodging Regulation:
Report on Combination Licenses for Food and Lodging Establishments**

In Accordance with Act 57 (2015), Section 11 ,

Submitted to: House Committee on Human Services
House Committee on Ways and Means
Senate Committee on Finance

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Introduction

The Vermont Department of Health (VDH) is pleased to submit this report pursuant to Act 57 (2015) Section 11 which requires that the Commissioner of Health submit to the House Committee on Human Services, the House Committee on Ways and Means, and the Senate Committee on Finance a report with recommendations designed to achieve licensing efficiencies, including risk-based inspections and combination licenses for food retailers and food and lodging establishments. The report shall include:

- A summary of how other New England states license such establishments and identify any other state that has a valuable model;
- A description of available models that include risk-based inspections and combination licenses; and
- Any recommendation of revenue-neutral fee structure changes that would improve efficiency for both the Department and licensees.

Summary of New England States

There is wide diversity in the public health program structures in the New England region. Each state has a different structure for food safety and sanitation regulatory programs, and many states have local boards of health that implement local licensing fees and conduct regulatory inspections within their cities and towns. Unlike most states, Vermont has a centralized state public health system that does not have local or county health departments. Vermont's structure is different from but most comparable to Rhode Island, Maine, and New Hampshire. However, the Vermont Department of Health has authority and responsibility for both food safety and lodging sanitation regulatory program work, which is less common in other New England states.

Table 1

State Health Department Program Areas and Inspection Structure

State	Health Department Program Area(s)	Public Health Inspection Structure
Connecticut	Food safety	Local boards of health
Maine	Food safety and lodging sanitation	State program with some self-inspecting cities
Massachusetts	Food safety	State program and local boards of health
New Hampshire	Food safety	State program with some self-inspecting cities
New York	Food safety	Local boards of health
Rhode Island	Food safety	State program
Vermont	Food safety and lodging sanitation	State program

Models for Risk-based Inspection Programs

The purpose of a risk-based inspection is to focus resources on the highest risk activities that are more likely to contribute to foodborne illness and injury. The U.S. Food and Drug Administration (FDA) has published recommendations for developing a risk-based inspection program in its Voluntary National Retail Food Regulatory Program Standards. Studies have shown that the types of food served, the food preparation processes used, the volume of food, and the population served has an impact on the occurrence of foodborne illness.

VDH participates in the National Retail Standards Program, and is implementing systems to shift towards conducting risk-based inspections and a risk-based inspection schedule in order to use limited personnel resources most efficiently. The national models for risk-based inspections do not include annual license fees in the methodology. Establishments that demonstrate a history of inspection compliance will be inspected less often by the Health Department in order to target resources on higher risk establishments.

There are several factors that regulatory programs use to determine a risk level and justify the inspection frequency of a food establishment:

- History of non-compliance of critical items or foodborne illness risk factors;
- Highly susceptible population served (schools, hospitals);
- History of outbreaks, foodborne illness and/or complaints;

- Specialized processes conducted (smoking, curing, reduced oxygen packaging);
- Preparing food a day in advance of service; and
- Serving a large number of people;
- Regulatory programs also evaluate the degree of active managerial control that business managers demonstrate in reducing foodborne illness risk factors.

The methodology for inspectors conducting risk-based inspections in establishments includes:

- Focusing the inspection on observing behaviors, practices and procedures;
- Conducting inspections at variable times to evaluate different activities;
- Establishing inspection priorities to use inspection time wisely;
- Determining process flows for how foods are prepared;
- Identifying foodborne illness risk factors associated with process flows; and
- Evaluating basic sanitation of facilities – good retail practices.

Examples of Combination Licensing

The Department evaluated the concept of “combination licensing”, where one type of regulatory license at a reduced fee can substitute for obtaining two separate licenses. Two examples of combination licenses are identified in the region. The Maine Centers for Disease Control and Prevention implements a combined “Eating and Lodging” license and a combined “Eating and Catering” license.

Table 2

Maine– Combination Licenses

Eating and Lodging	\$275
Eating and Catering	\$275

The New Hampshire Department of Health and Human Services has a license fee structures that contains class categories A through G for food establishment licensing. The categories are risk based, and group the attributes of establishments based on size and risk of activities. For example, the number of restaurant seats or the number of food preparation areas in retail stores is a measure of size and scale. Serving prepackaged foods that do not require temperature control compared to full-service restaurants with specialized processes is a measure of risk factors for

foodborne illness. Establishments are required to be in the license class that corresponds to the highest risk criteria identified that applies to their operation.

Table 3

New Hampshire - Class of Licenses

Class of License	Class Categories	License Fee
Class A	Food establishment with 200 seats or more	\$875
	Retail food store with 4 or more prep areas	
Class B	Retail food store with 2-3 prep areas	\$450
	Food establishment with 100-199 seats	
Class C	Retail food store with one food prep area	\$350
	Caterers off-site	
	Food establishment with 25-99 seats	
	Bar/lounges with food prep area	
Class D	Food establishment with 0-24 seats (including bakeries)	\$225
	Fraternities and sororities	
	Retail food store – self service	
	Servicing areas	
Class E	Bed and breakfast	\$175
	Ice cream vendors - scooping	
	Lodging facilities serving continental breakfast	
Class F	Retail food store – no food prep area	\$150
	Wholesalers/distributors	
	On-site vending machines serving Temperature Control for Safety (TCS) food	
	Bakeries which do not serve TCS food	
Class G	Bar/lounges with no food prep area that serves alcohol	\$100
	Arena/theater concessions serving non-TCS foods	
	Retail food store serving pre-packaged ice cream only	
	Institutions including state, county and municipal institutions	
	Private schools	
	Senior meal sites	
	Sellers of prepackaged frozen USDA meat or poultry	

Combination licenses or risk categorization can be beneficial to business stakeholders by reducing fees and time spent renewing multiple licenses. A limitation is that there are multiple permutations for license combinations, and the impact of creating multiple combination categories on program revenue is not possible to quantify.

Conclusions

The Health Department is in the process of implementing risk-based inspection strategies and will incorporate best practices into daily operations.

At this time, the Health Department does not recommend the creation of combined licenses within the existing fee structure for the following reasons:

The current Health Department fee structure is very specific and includes category tiers based on size. New combination licenses with a fee discount would reduce license payments for some stakeholders and increase payments for others. The limitation is that the cost difference will need to be added to another license category in order to maintain a revenue-neutral structure. Changes to any of the existing fee categories would affect multiple business stakeholders.

The creation of new license types will also conflict with the current regulations. The *Health Regulations for Food Service Establishments* include regulatory definitions and requirements for license categories in the fee section of 18 V.S.A. §4353. These regulations are scheduled for updating through the rulemaking process during 2017. This will be an opportunity to evaluate the overall structure in coordination with rulemaking.

Database improvements in 2016 will provide the ability to collect and analyze program data that is vital for the conversation of restructuring fees based on risk data. The Department is implementing database improvements that will improve the license renewal process for businesses. The Department is also working toward providing businesses the option to renew licenses with online payments. These improvements will save time for businesses and also Health Department personnel processing paper renewals. Database improvements will also improve scheduling efficiencies for inspections, reducing multiple visits to establishments for routine inspection.

Recommendations

At this time, the Health Department does not recommend the creation of combined licenses. The Health Department is currently implementing steps to increase efficiencies for the program and industry stakeholders. The program fee bill year is FY 2018. The Department recommends waiting until FY 2018 to revise the fees. After having two years of risk-based data, a significant improvement in the IT system including online payments, and regulatory updates, the Health Department will be better positioned to propose a new fee structure.